

Howrey Docket No. 04813.0026.NPUS00  
Metallic Power Ref. No. MPPT.0021.NPRUS01

THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Jeffrey A. Colborn, et al.

Appl. No.: 10/058,231

Filed: October 19, 2001

For: **METHODS OF USING FUEL CELL  
SYSTEM CONFIGURED TO PROVIDE  
POWER TO ONE OR MORE LOADS**

Art Unit: 1745

Examiner: Donald Scaltrito

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TC 1700

**Terminal Disclaimer to Obviate a Double Patenting  
Rejection Under 37 C.F.R. § 1.321(c)**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**METALLIC POWER, INC.** represents that it is the owner of the entire right, title, and interest of U.S. Patent Application No. 09/930,394, and any U.S. Patent that may issue therefrom, by virtue of an Assignment from inventor Jeffrey A. Colborn executed on September 20, 2001, and recorded on October 1, 2001, at Reel 012258, Frame 0936. **METALLIC POWER, INC.** further represents that it is the owner of the entire right, title, and interest of the above-named Application No. 10/058,231 by virtue of the Assignment from inventors Jeffrey A.

CERTIFICATE OF MAILING  
(37 C.F.R. §1.8a)

I hereby certify that this paper (along with any referred to as being attached hereto) is being deposited with the United States Postal Service on the date shown below with sufficient postage as First Class Mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

December 3, 2003  
Date of Deposit

Robin L. Clow

Name of Person Mailing Paper

R. Clow

Signature of Person Mailing Paper

Colborn and Stuart I. Smedley executed on March 13, 2002, and recorded on March 29, 2002, at Reel 012774, Frame 0692.

***Establishing Right of Assignee to Take Action Under 37 C.F.R. § 3.73(b)***

In accordance with 37 C.F.R. § 3.73(b)(2), the undersigned affirms that he is an attorney or agent of record duly authorized to act on behalf of the assignee.

***Disclaimer***

**METALLIC POWER, INC.** hereby disclaims the terminal part of any patent granted on U.S. Application No. 10/058,231 that would extend beyond the expiration of any U.S. Patent granted on its co-owned U.S. Application No. 09/930,394, and hereby agrees that any patent granted on U.S. Application No. 10/058,231, or any patent granted on U.S. Application No. 10/058,231 and subject to a reexamination proceeding, shall be enforceable only for and during such period that said patent is commonly owned with any patent granted on U.S. Patent Application No. 09/930,394, the application that formed the basis of the obviousness type double patenting rejection, this agreement to run with any patent granted on U.S. Application No. 10/058,231 and to be binding upon the grantee, its successors or assigns.

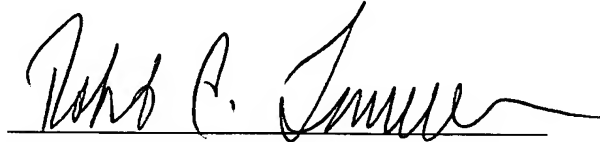
Petitioner does not disclaim any terminal part of any patent granted on the U.S. Application No. 10/058,231 prior to the expiration date of the full statutory term, as currently shortened by any terminal disclaimer, of any patent granted on U.S. Application No. 09/930,394 in the event that such patent later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321(a), has all claims cancelled by a reexamination certificate, or is otherwise terminated prior to the expiration of its statutory term as shortened by any terminal disclaimer filed prior to its grant, except for the separation of legal title stated above.

This disclaimer is accompanied by the fee set forth under 37 C.F.R. § 1.20(d). The U.S. Patent and Trademark Office is hereby authorized to charge this fee, and any fee deficiency, to our Deposit Account No. **08-3038**, referencing Docket No. 04813.0026.NPUS00.

Respectfully submitted,

HOWREY SIMON ARNOLD & WHITE LLP

Date: December 3, 2003

A handwritten signature in dark ink, appearing to read "Robert C. Laurenson", written over a horizontal line.

Robert C. Laurenson, Reg. No. 34,206

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